

EX PARTE OR LATE FILED

**ZEHMAN-WOLF MANAGEMENT, INC.**

LANDMARK CENTRE • SUITE 270

25700 SCIENCE PARK DRIVE • CLEVELAND OHIO 44122 • PHONE (216) 464-9900

July 8, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M. Street, NW, Room 222  
Washington, DC 20554

Re: Restrictions on Over-The-Air Reception Devices. CS Docket No. 96-83; and Preemption of  
Local Zoning Regulation of Satellite Earth Stations (IB Docket No. 95-59.)

Dear Mr. Caton:

I write to request clarification regarding the possible effect on our business of the rules proposed in the above dockets. An original and 13 copies of this letter are enclosed for filing in the record. I understand that the proposed rules would invalidate "nongovernmental restrictions" that "impair" a viewer's ability to receive video programming over the air, through a wireless cable or similar system, or by direct broadcast satellite.

Zehman-Wolf Management, Inc., owns and manages multi-unit, residential apartment buildings. Consequently, we have entered into thousands of leases with our residents. I am concerned that our leases might contain terms that are "nongovernmental restrictions" that "impair" viewing, but we do not know how the proposed rules would be applied. This uncertainty could very well create unnecessary disputes with our residents.

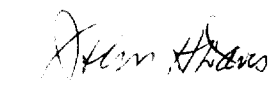
I would appreciate your guidance in determining which provisions of our lease contain terms that might be considered "nongovernmental restrictions" or "impairments" under the rules you propose in our circumstances.

Accordingly, I have enclosed a copy of one of our representative lease forms. Please read it and let me know which terms of the enclosed form would violate either of the proposed rules.

Thank you for your assistance.

Very truly yours,

ZEHMAN-WOLF MANAGEMENT, INC.



John H. Davis  
President

JHD/lo

Enclosures

### Lease Agreement

(1) **This Lease**, made this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

by and between \_\_\_\_\_ hereinafter designated as the  
Landlord, and \_\_\_\_\_  
hereinafter designated as the Tenant.

Description (2) The Landlord, in consideration of the rents to be paid and the covenants and agreements to be performed by the Tenant, has demised and leased, and does hereby demise and lease unto the Tenant the following described premises situate in the City of \_\_\_\_\_ County of \_\_\_\_\_ and State of Ohio, to wit:

Apartment No. \_\_\_\_\_ on the \_\_\_\_\_ floor of the building known as \_\_\_\_\_

situated at \_\_\_\_\_

Term and Rent (3) For the term of \_\_\_\_\_  
commencing from and after the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
fully to be completed, the Tenant shall pay, during the continuance of this lease to the Landlord for rent of said premises, for said term, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_),  
in legal tender in monthly installments of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in advance, upon the \_\_\_\_\_ day of each and every month beginning the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_.

Occupancy (4) The Tenant agrees that the demised premises are rented to be occupied by \_\_\_\_\_ persons for residence purposes only and no others shall be permitted to occupy the same, unless approved by Landlord in writing.

Rent (5) The Tenant hereby leases the said premises for the same term as above mentioned and covenants to pay, or cause to be paid, unto the said Landlord at the dates and times mentioned, the rent above reserved. The Landlord reserves the right to subject and subordinate this lease at all times to the lien of any mortgage or mortgages now or hereafter placed upon the Landlord's interest in the said premises and on the land and buildings of which the said premises are a part or upon any buildings hereafter placed upon the land of which the demised premises form a part.

Payments Other Than Rents (6) If the Tenant shall omit to make any payment or expenditure, other than rent, which he is obliged to make, and the Landlord shall make such payment or expenditure, then the amount thereof may, at the Landlord's election, be added to any installments of rent then due or thereafter falling due and the Landlord shall have the same remedies in the premises that he has for non-payment of rent.

Place of Payment (7) All payments to the Landlord shall be made at such place as the Landlord shall designate

Sub-Lease and Assignment (8) The Tenant covenants not to assign or transfer this lease, or any interest therein, or hypothecate or mortgage the same, or sub-let said premises or any part thereof without the written assent of said Landlord.

Fire Clause (9) In case the premises hereby leased shall be partially damaged by fire or other cause during the said term, they shall be repaired by the Landlord or Insurance Company, with all reasonable dispatch, and a proportionate reduction of rent shall be allowed the Tenant for the time occupied in such repairs, excepting (a) if the Tenant can use and occupy the demised premises without substantial inconvenience there shall be no reduction of rent and (b) if said repairs are delayed because of the failure of said Tenant to adjust its own insurance (if any) no reduction shall be made beyond a reasonable time allowed for such adjustment. In case the damage shall amount substantially to the destruction of the premises leased, then this lease shall become null and void and the responsibilities of the Landlord and the Tenant with reference to the unexpired term, shall cease. In the event the premises are not ready for occupancy upon the date agreed upon or specified in this lease for any reason whatsoever beyond the control of the Landlord, the Tenant shall not have cause for any damages whatsoever except a rebate of rental for the period the premises are untenable. This rebate shall be based upon the monthly rental in effect at the time.

Tenant's Obligations (10) The Tenant shall keep that part of the premises that he occupies and uses safe and sanitary; dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner; keep all plumbing fixtures in the dwelling unit, or used by Tenant, as clean as their condition permits; use and operate all electrical and plumbing fixtures properly; comply with the requirements imposed on tenants by all applicable state and local housing, health, and safety codes; personally refrain, and forbid any other person who is on the premises with his permission from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the premises; conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises; not unreasonably withhold consent for the Landlord to enter into the dwelling unit in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels which are too large for the Tenant's mail facilities, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors; and maintain in good working order and condition the following appliances supplied by the Landlord: \_\_\_\_\_

The Tenant shall not allow said premises to be used for any purpose or in any way that will increase the rate of insurance thereon, nor for any purpose other than that hereinbefore specified, nor to be occupied by any other person; and shall not suffer to be brought into said premises any substance or force that will increase the hazard of fire on said premises; and shall not permit liquor or drugs to be sold on said premises; and shall not permit said premises to be used for any unlawful purpose or in any way that will injure the reputation of the same or of the building of which they are a part; and shall not permit alteration of any part of said demised premises, except by written consent of Landlord. All alterations and additions shall remain for the benefit of, and become the property of the Landlord, unless otherwise provided in said written consent.

Use of Public Halls (11) The entrance, passages, halls, corridors, stairways, elevators, exits and fire escapes shall not be obstructed by the Tenant, his agents or servants, nor used by him or them for any other purposes than ingress or egress to or from the premises hereby leased. No furniture or bulky articles shall be carried up or down the stairways of said buildings except only at such times and under such regulations as may be prescribed by the Landlord.

<b>Roof</b>	(12) The Tenant shall not construct an aerial, or use the roof without the written consent of the Landlord.
<b>Apartment Doors</b>	(13) The Tenant shall lock the main entrance door and apartment doors when leaving the building or apartment; keep all hall doors closed when cooking; and shall not throw sweepings, rags, garbage, rubbish, etc. into toilets, bathtubs or sinks, or any other place not provided for same.
<b>Condition of Premises at Time of Lease</b>	(14) The Tenant acknowledges that he has examined the demised premises prior to making this lease, that no representations as to the condition or state of repairs thereof have been made by the Landlord, which are not herein expressed, and the Tenant hereby accepts the demised premises in their present condition.
<b>Condition of Premises Kept by Tenant</b>	(15) The Tenant shall yield the premises back to the Landlord upon termination of this lease, in the same condition of cleanliness, repair and sightliness as at the date of the execution hereof, less by fire, acts of God, and reasonable wear and tear excepted. If the said premises shall not thus be kept in good repair and in a clean and sightly condition by the Tenant, as aforesaid, the Landlord may enter the same, himself or by his agents, servants or employees, without such entering causing or constituting a termination of this lease or an interference with the possession of the premises by the Tenant, and the Landlord may restore the same to the same condition as existed at the date of execution hereof, and the Tenant agrees to pay the Landlord in addition to the rent hereby reserved, the expenses of the Landlord in thus restoring the premises to that condition. The Landlord shall, except in the case of emergency or if it is impracticable to do so, give the Tenant reasonable notice of his intent to enter and enter only at reasonable times. Twenty-four (24) hours is presumed to be a reasonable notice in the absence of evidence to the contrary. The Tenant shall not cause or permit any waste, misuse or neglect of water, or of the water, gas or electric fixtures.
<b>Landlord's Obligations</b>	(16) The Landlord shall comply with the requirements of all applicable building, housing, health, and safety codes which materially affect health and safety; make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition; keep all common areas of the premises in a safe and sanitary condition; maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by him; supply running water, reasonable amounts of hot water and reasonable heat at all times, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection; and not abuse the right of access conferred by paragraph 15 above.  If the Landlord is a party to any rental agreement that cover four (4) or more dwelling units in the same structure, the Landlord shall provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit, and arrange for their removal.
<b>Personal Property</b>	(17) All personal property in the demised premises shall be at the Tenant's risk only and the Landlord shall not be liable for any damages to said personal property, or to said Tenant or other persons, arising from the building or appurtenance thereof becoming out of repair, or from the bursting, leaking or overflowing of water, gas, sewer or steam pipes, or from any sprinkler system, or any plumbing connected therewith, or from any damage caused by defective electric wiring, or from any acts or neglect of co-tenant or other occupants of the building, or any other person, or theft, or due to the happening of any accident in or to said building.  Any personal property left by Tenant for thirty (30) days after vacating the premises shall be considered abandoned and become the property of the Landlord.
<b>Gas, Light Charges</b>	(18) Tenant will pay for the utilities of _____ on leased premises as due.
<b>Re-Entry</b>	(19) In case any rent shall be due and unpaid or if default be made in any of the covenants herein contained, or if the Tenant has made a false statement on the rental application, or if said leased premises shall be deserted or vacated it shall be lawful for the Landlord, his certain attorneys, representatives and assigns, to re-enter into, repossess the said premises and to evict the Tenant according to due process of law.
<b>Cumulative Rights</b>	(20) It is agreed that each and every one of the rights, remedies, and benefits provided by this lease shall be cumulative, and shall not be exclusive of any other of said rights allowed by law.
<b>Waivers</b>	(21) One or more waivers of any covenant or condition by the Landlord shall not be construed as a waiver of a further breach of the same covenant or condition.
<b>Rent Demands</b>	(22) Tenant hereby expressly waives any demand for rent.
<b>Possession</b>	(23) It is understood that if the Tenant shall be unable to enter into and occupy the premises hereby leased at the time above provided, by reason of said premises not being ready for occupancy, or by reason of the holding over of any previous occupant of said premises, or as a result of any cause or reason beyond the direct control of the Landlord, the Landlord shall not be liable in damages to the Tenant therefor, but during the period the Tenant shall be unable to occupy said premises as hereinbefore provided, the rental therefor shall be abated, and the Tenant shall have the option to terminate this lease by notice in writing to the Landlord at any time prior to said premises being ready for occupancy. Upon proper termination by the Tenant hereunder, the Landlord shall refund to the Tenant the rental application deposit, if any.
<b>Notices</b>	(24) Whenever provision is made for notice, it shall be deemed sufficient if the said notice to the Tenant is in writing addressed to the last known post office address of the Tenant, or to the demised premises and deposited in the mail; and notice to the Landlord shall be deemed sufficient if the notice is in writing addressed to the Landlord's last known post office address and deposited in the mail. Notice need be sent to only one Tenant or Landlord where Tenant or Landlord consists of more than one person.
<b>Holdover</b>	(25) If the Tenant shall hold over after the end of the term of this lease, said holdover shall be deemed a tenancy from month to month. Such month-to-month tenancy shall be on the same terms and conditions set forth in this lease, except, the Landlord shall have the right to increase the monthly rental at any time and from time to time upon thirty (30) days written notice to the Tenant.
<b>Interruption of Service</b>	(26) Interruption or curtailment of any service maintained on the premises if caused by strikes, mechanical difficulties or any other cause beyond the Landlord's control, whether similar or dissimilar to those enumerated, shall not entitle the Tenant to any claim against the Landlord or to any reduction in rent, nor shall the same constitute constructive or partial eviction, unless the Landlord shall fail to take such measures as may be reasonable in the circumstances to restore the service without undue delay.
<b>Entry</b>	(27) If the Tenant shall not be personally present to permit any permissible entry into the premises, the Landlord may enter same by a master key, or forcibly, without being liable in damages therefor and without affecting the obligations of the Tenant hereunder.
<b>Further Writing</b>	(28) Neither party has made any representation or promise, except as contained herein and in the rental application, or in some further writing signed by the party making such representation or promise.

Security Deposit

(29) As security for the faithful performance of Tenant's Agreements under this Lease, Tenant has deposited with Landlord the sum of ..... Dollars (\$.....). Landlord shall pay no interest thereon (except for five percent (5%) per annum on any amount in excess of the current monthly rent payment if Tenant remains in possession of premises for six (6) months or more and shall be computed and paid annually) and may apply said deposit (but shall have no obligation so to do) against the payment of any obligation of Tenant under this Lease not faithfully performed. Upon the expiration of the term of this Lease, Landlord agrees to return to Tenant said deposit, or so much thereof as shall not have been applied in payment of any of Tenant's obligations. Any deduction from the security deposit shall be itemized and identified by the Landlord in a written notice delivered to the Tenant at a forwarding address supplied in writing by the Tenant, together with the amount due, within thirty (30) days after termination of the rental agreement and delivery of possession to the Landlord.

Owner

(30) The name and address of the owner of the premises is:  
(Person in charge) .....  
(Name of Company) .....  
(Address) ..... Zip .....

Agent

(31) The name and address of the Agent of the owner of the premises is:  
(Person in charge) .....  
(Name of Company) .....  
(Address) ..... Zip .....

Rules and Regulations

(32) The rules and regulations contained on the reverse side hereof are made a part hereof by reference and incorporated herein, and Tenant shall observe the same. Failure to keep and observe the said rules will constitute a breach of the terms of this lease in the same manner as if the said rules were contained herein.  
(33) The covenants, conditions and agreements made and entered into by the parties hereto are declared binding on their respective heirs, successors, representatives and assigns.

Other Clauses

.....  
.....  
.....  
.....  
.....  
.....

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.  
LANDLORD HAS SIGNED IN THE PRESENCE OF: .....  
.....  
.....  
Landlord

WARNING: This is a binding legal contract. Do not sign without fully understanding. Consult an attorney if you have questions.  
.....  
.....  
Tenant

THE STATE OF OHIO }  
County of ....., ss. } Before me, a Notary Public in and for said County and State, personally  
appeared the above named Landlord: .....  
who acknowledged that ..... did sign the foregoing instrument and that the same is .....  
free act and deed.  
Witness my hand and official seal at ..... Ohio  
this ..... day of ..... 19.....  
.....  
Notary Public

The Landlord must have his signature witnessed and notarized if this lease is for a term of three or more years.  
  
This Instrument prepared by .....

RULES AND REGULATIONS

Name Plates	(1) Tenants will not be allowed to put their names in any entry, passageway, vestibule, hall or stairway of the building except in the proper places provided therefor.
Cleaning Rubbish Dusting	(2) No rugs shall be beaten on the porches, nor dust, rubbish or litter swept from the demised premises or any room thereof into any of the halls or entryways of the building containing said premises; nor shall any such dust, rubbish or litter or anything else be thrown or emptied from any of the windows or porches of said building.
Obstructing Halls and Passageways	(3) The sidewalks, entries, passages, vestibules, halls and stairways on the outside of the several apartments shall not be obstructed or used for any purpose other than for ingress and egress to and from the respective rooms or apartments.
Lavatories	(4) The water closets and other water apparatus shall not be used for any purpose other than that for which they were constructed, and no sweepings, rubbish, rags, paper, ashes, or other substances shall be thrown therein. Any damage resulting to them from misuse of any nature or character whatever shall be paid for by the Tenant who shall cause it.
Moving	(5) All damages to the building, caused by the moving or carrying of articles therein, shall be paid by the tenant, or person in charge of such articles.
Throwing or Hanging Articles out of Windows	(6) Nothing shall be thrown by the tenants or their servants out of the windows or doors, or down the passages, courts, areas or skylights of the building, nor shall anything be hung from the outside of the windows or placed on the outside window sills.
Nails, Hooks in Walls	(7) No spikes, hooks or nails shall be driven into the walls or woodwork of the demised premises. No crating or boxing of furniture or other articles will be allowed within demised premises.
Cooking and Baking	(8) There shall be no cooking or baking done except in the kitchen.
Waste of Water	(9) The water shall not be left running any unreasonable or unnecessary length of time in the demised premises.
Tampering with Apparatus	(10) No tenant shall interfere in any manner with any portion of either the heating or lighting apparatus in or about the demised premises nor in or about the building containing the same.
Noise Music	(11) No noise, music or disorderly conduct, or conduct annoying or disturbing to the occupants of the building, shall be permitted in any part thereof.
Laundry	(12) Laundry work shall be done only in the rooms provided for such purposes in the demised premises.
Moving Equipment	(13) No equipment may be moved from any part of the building. All equipment must be permanently retained in its original location.
Animals	(14) Dogs, cats, parrots, or other birds, reptiles or animals are not allowed on demised premises except by written consent of the Landlord or his agent.
Children Playing in Halls	(15) Children shall not be permitted to loiter or play on the stairways or front porches or in the halls, lobby, vestibule or front court or driveway.
Strangers Not Allowed	(16) Unauthorized persons shall not be admitted in the building. Do not allow strangers to enter your apartment. Employees of utility companies shall display proper badge or credentials. Be on your guard for thieves.
Awnings, Signs, Advertisements	(17) No awning or projection, and no sign, advertisement, notice or device, of any kind, shall be placed or permitted to remain upon any part of the building, outside or inside, nor shall any article be suspended outside the building, or placed on the window sills thereof, save with the consent in writing of the Landlord.
Landlord's Right to Make Further Rules	(18) The Landlord shall have the right to make such other and further reasonable rules and regulations as in his judgment may from time to time be needful for the safety, care and cleanliness of the premises, and for the preservation of good order therein, and the same be kept and observed by the tenants, their families, visitors, guests, clerks, servants and agents.
Obstruction of Windows	(19) Doors, skylights, or windows reflecting or admitting light into passageways, or elsewhere in the building, shall not be covered or obstructed by the tenants.
Private Work of Employees	(20) Tenants are not permitted to ask employees of the Landlord to do work of a private nature during working hours.
Defects in Pipes, Wires, Premises	(21) Notice of defects in gas, water or steam pipes, or in electric wires or other defects appearing on the premises shall be immediately given by the tenant to the Landlord.

APARTMENT LEASE

Adopted by  
The Northeast Ohio Apartment Assn.

FROM

TO

Apartment No. on Floor  
No.  
Monthly Installment \$  
From A. D. 19  
To A. D. 19